

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

May 18, 2017

To: Subcommittee on Environment Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on “H.R. __, Drinking Water System Improvement Act and related issues of funding, management, and compliance assistance under the Safe Drinking Water Act.”

On **Friday, May 19, 2017, at 8:30 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Environment will hold a legislative hearing on a discussion draft circulated by Subcommittee Chairman John Shimkus entitled, “H.R. __, Drinking Water System Improvement Act”. A brief summary of the draft’s provisions and a comparison to related provisions in H.R. 1068 the Safe Drinking Water Act Amendments of 2017 (SDWA Amendments) introduced by Ranking Member Pallone follows.

I. H.R. __, DRINKING WATER SYSTEM IMPROVEMENT ACT OF 2017

Section 1. Short Title.

Section 2. Contractual Agreements. Currently, the Safe Drinking Water Act (“SDWA”) incentivizes consolidation or restructuring of public water systems to improve compliance by granting a two-year reprieve from enforcement actions in cases of physical consolidation, consolidation of management and administrative functions, or transfer of ownership. The discussion draft broadens this enforcement protection to a fourth case where a public water system enters into a contractual agreement for the management or administration of another public water system. The draft does not change the incentives in place.

The SDWA Amendments¹ would change this incentive system to improve compliance. Under that bill, water systems that have repeatedly failed to comply with drinking water standards would be required to assess options for consolidation. It also better incentivizes consolidation by making such activities eligible for State Revolving Fund (SRF) money, and providing liability protection to compliant systems consolidating with non-compliant systems.

Section 3. Asset Management. The draft adds references to asset management in a section of SDWA on state capacity development strategies, but does not require states to amend those strategies to reflect the changes. The draft also requires the Environmental Protection Agency (EPA) to review and update its guidance on asset management every five years.

The SDWA Amendments² would promote asset management by requiring states to give extra weight to SRF applications that contain asset management plans including an inventory of assets and a schedule for their replacement. That requirement would be defined and implemented by the states, not the EPA.

Section 4. Authorization for Grants for State Programs. The discussion draft provides for Public Water System Supervision grants, but the amount authorized for each of fiscal years 2018 through 2022 is bracketed.

Section 5. State Revolving Loan Funds. The discussion draft increases the time period over which principal and interest payments on a loan can be deferred, from 12 to 18 months, and extends the deadline by which the loan must be paid back in full, from 30 to 35 years. This deadline is extended further to 40 years for disadvantaged communities. While it increases the amount of loan subsidies states can provide to disadvantaged communities from 30 to 35 percent, the draft does not include a minimum funding requirement for assisting these communities.

The SDWA Amendments³ provides greater assistance for disadvantaged communities by requiring states with a demonstrated need to provide assistance through the disadvantaged community provisions of SDWA and allowing public water systems whose service areas include a disadvantaged portion to qualify for assistance. The SDWA Amendments⁴ also require states to prioritize SRF projects for disadvantaged communities affected by affordability issues from a new drinking water standard.

Section 6. Other Authorized Activities. The discussion draft updates language in SDWA to allow the use of a portion of SRF capitalization grants to assess source water protection within the existing statutory authority, but it prohibits the use of these funds for Clean Water Act compliance. The draft does not clarify what activities would qualify for this funding.

¹ SDWA Amendments §502.

² SDWA Amendments §407.

³ SDWA Amendments §408.

⁴ SDWA Amendments §412.

The SDWA Amendments⁵ creates a new program for sourcewater protection, because the program in existing law has not been effective. The bill requires water systems to assess source water vulnerability to contamination, climate change, and terrorism, and develop plans to mitigate such vulnerabilities. The SDWA Amendments authorizes \$50 million for each of five years to carry out these response plans.

Section 7. Authorization for Capitalization Grants to States for State Drinking Water Treatment Revolving Loan Funds. The discussion draft provides funding for SRF capitalization grants, however, the amount authorized for each of fiscal years 2018 through 2022 remains bracketed.

The SDWA Amendments⁶ authorizes appropriations for fiscal years 2018 through 2022 at increasing levels, for a total of \$21.44 billion over this period.

Section 8. Demonstration of Compliance with Federal Cross-Cutting Requirements. The discussion draft amends SDWA to allow demonstration of compliance with a state or local law as demonstration of compliance with any Federal cross-cutting requirement tied to the receipt of a loan or loan guarantee.

II. H.R. 1068, THE SAFE DRINKING WATER ACT AMENDMENTS OF 2017.

The discussion draft does not include several important topics contained in the SDWA Amendments. These include provisions for regulating drinking water contaminants, reducing lead in drinking water, improving community right to know and consumer confidence, and investments in drinking water related research. The SDWA Amendments also requires that iron and steel used in SRF projects are made in America and that SRF projects pay prevailing wages, provisions absent from the discussion draft. For a complete summary of the SDWA Amendments, please see the attached section-by-section description.

III. WITNESSES

The following witnesses have been invited to testify:

Lisa Daniels

Director, Bureau of Safe Drinking Water
Pennsylvania Department of Environmental Protection
On behalf of the Association of State Drinking Water Administrators

Kurt Vause

Special Projects Director, Anchorage Water and Wastewater Utility
On behalf of the American Water Works Association

⁵ SDWA Amendments §301.

⁶ SDWA Amendments §411.

Scott Potter

Director of Nashville Metro Water Services, Nashville, TN
On behalf of the American Municipal Water Association

Martin A. Kropelnicki

President and CEO, California Water Service Group
On behalf of the National Association of Water Companies

Steve Fletcher

Manager, Washington County Water Company, Nashville, IL
On behalf of the National Rural Water Association

Lynn Thorp

National Campaigns Director
Clean Water Action

James Proctor

Senior Vice President and General Counsel
McWane, Inc.